IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6758 of 1986
WITH
SPECIAL CIVIL APPLICATION No. 16806 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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GUJ STATE ROAD TRANSPORT CORPN - Petitioner(s)
Versus
CHANDRASING JITSINH RANA & 1 - Respondent(s)

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Appearance :
MR HARDIK C RAWAL for Petitioner(s) : 1,
MR GK RATHOD for Respondent(s) : 1,
MR LB DABHI, AGP for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 14/11/2005

ORAL JUDGMENT

1.The petitioner – Gujarat State Road Transport Corporation has filed this petition under Article 227 of the Constitution of India praying for quashing and setting aside the order dated 27.11.1986 passed by the second respondent in I.D. Case No. 37/86 and further praying for the direction to the second respondent to grant approval as sought for by the petitioner.

2.The petition was admitted by this Court on 01.01.1987. However, the same could not be taken up for final hearing. After this petition was admitted by this Court, the respondent No. 1 has filed reference being Reference (L.C.V.) No. 1587 of 1999 before the Labour Court, Vadodara and the Labour Court vide award dated 04.02.2002 granted reinstatement to the respondent No. 1 without any back wages and continuity of service.

Accordingly, the respondent No. 1 was reinstated. However, so far as order of not granting back wages and continuity of service is concerned, the petitioner has filed Special Civil Application No. 16806 of 2004 before this Court and on 09.02.2005, this Court has issued rule in the said petition and it was ordered to be heard with Special Civil Application No. 6758 of 1986.

3.While rejecting the approval, the Conciliation Officer has observed that there is no provision under the Industrial Disputes Act to seek the approval again for the same cause of action. It is also observed in the said order that earlier, the approval was rejected on some technical grounds and those technical objections were removed and again the order of dismissal was passed. However, no fresh departmental inquiry was initiated and no notice was also issued on the respondent No. 1.

The learned Conciliation Officer has, therefore, taken the view that there is no question of seeking second approval for the same set of facts and the said order was challenged by the petitioner in this petition.

4.Mr. Hardik C. Rawal, learned advocate appearing for the petitioner Corporation has submitted that the issue is concluded in favour of the petitioner in the case of G.S.R.T.C. V/s. Jarnalsingh D. Ramgadhia, 1996 (2) G.L.H. 920 wherein the Court has taken the view that where the Conciliation Officer earlier held that there was a deficiency of 52 paise, the management was fully justified in accepting the error and correcting it and then issuing another order of dismissal and then applying for approval. The Conciliation Officer is wholly in error in emphasising that after the workman resumed his duty on 26.08.1994, there has not been any departmental proceedings

against him. The management is fully within its rights to pass the second order on the same set of facts and to contend that whether its inquiry was fair or proper be gone into and thereafter the approval may be either granted or rejected.

5.Considering the above judgment, the Court is of the view that the reasoning adopted by the learned Conciliation Officer for refusing to grant approval is not just and proper. Hence, the present petition requires interference by this Court. However, instead of remanding the matter to the Conciliation Officer for deciding the approval afresh, looking to the facts of the present case and since the matter is very old and pending since 1986 and since the respondent No. 1 has already been reinstated by the petitioner Corporation pursuant to the order passed by the Labour Court, Vadodara, the Court hereby disposes of this petition with a

direction that the respondent No. 1 is not entitled to back wages and even otherwise for the last more than 13 years, the respondent No. 1 was not in job and the respondent No. 1 was reinstated only after the award passed by the Labour Court, Vadodara which order has not been challenged by the petitioner Corporation. The respondent No. 1 is, however, entitled to reinstatement with continuity of service without any monetary benefits.

6.In the above view of the matter, the present petition as well as Special Civil Application No. 16806 of 2004 are disposed of by making it clear that there is no question of granting any back wages to the respondent No. 1. Rule is made absolute to the above extent without any order as to costs.

[K.A. PUJ, J.]

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